

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO**

**PACER Cover Sheet
for Electronically Filed Documents**

Any data shown here are current as of 06/10/06 . Any element of information on this form, except the received date, is subject to change as changes may be made to the Court's official docket.

Case Title: Lucy Marie Mondragon

Case Number: 06-10219

Document Information

Description: Order Denying [2-1] Determination Request .

Received on: 2006-03-27 14:11:11.000

Date Filed: 2006-03-27 00:00:00.000

**Date Entered On
Docket:** 2006-03-27 00:00:00.000

Filer Information

Submitted By: Patti Hennessy

If this form is attached to the document identified above, it serves as an endorsed copy of the document as it existed on the above date. To confirm that nothing has changed since then, review the docket.

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO**

In re: LUCY MARIE MONDRAGON,

No. 7-06-10219 MR

Debtor.

**ORDER DENYING DEBTOR'S REQUEST FOR DETERMINATION THAT
DEBTOR IS UNABLE TO COMPLETE REQUIREMENTS FOR BUDGET AND
CREDIT COUNSELING**

THIS MATTER is before the Court on the Debtor's Request for Determination that Debtor is Unable to Complete Requirements for Budget and Credit Counseling ("Request"). The Court held a final hearing on the Request on March 20, 2006 and took the matter under advisement. Debtor requests that the Court determine that she is unable to complete the requirements for budget and credit counseling mandated by 11 U.S.C. § 109(h) because she is unable to pay for a budget and credit counseling course. The Court finds that the exceptions outlined in 11 U.S.C. § 109(h)(4) do not include an inability to pay. Section 109(h)(4) provides:

The requirements of paragraph (1) shall not apply with respect to a debtor whom the court determines, after notice and a hearing, is unable to complete those requirements because of incapacity, disability, or active military duty in a military combat zone. For the purposes of this paragraph, incapacity means that the debtor is impaired by reason of mental illness or mental deficiency so that he is incapable of realizing and making rational decisions with respect to his financial responsibilities; and "disability" means that the debtor is so physically impaired as to be unable, after reasonable effort, to participate in an in person, telephone, or Internet briefing required under paragraph (1).


11 U.S.C. § 109(h)(4).

This section defines "incapacity" and "disability" for purposes of that section, and inability to pay does not fall within the defined parameters for an exemption from completing the budget and credit counseling course required under 11 U.S.C. § 109(h)(1). However, of the credit and counseling

services approved by the Office of the United States Trustee, at least one of the budget and credit counseling services states on its website that it will reduce or waive its pre-petition budget and credit counseling fees for a debtor whose household income is less than 150% of the estimated poverty threshold for their applicable family size as published by the Bureau of the Census, and is unable to pay the fee based on the debtor's budget analysis.¹ Based on the Debtor's statements and schedules filed in this bankruptcy proceeding, the Debtor appears to fall within these parameters.

WHEREFORE, IT IS HEREBY ORDERED that the Debtor's Request for Determination that Debtor is Unable to Complete Requirements for Budget and Credit Counseling is DENIED.

Debtor must complete budget and credit counseling as required under 11 U.S.C. § 109(h)(1), and file with the Court a certification of completion of pre-petition budget and credit counseling within 20 days of the date of entry of this Order. Failure to complete a budget and credit counseling course and file with the Court a certification of completion of budget and credit counseling course will result in dismissal of the Debtor's bankruptcy proceeding without further notice.



MARK B. McFEELEY
United States Bankruptcy Judge

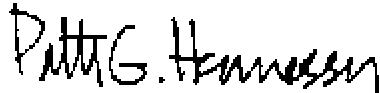
¹Alliance Credit Counseling, acc.consumerbkcenter.com, 1-888-594-9596 is approved by the Office of the United States Trustee, will conduct budget and credit counseling sessions by telephone, and states on its website that it will consider reducing or waiving the fee for such service. Consumer Credit Counseling Service of San Francisco, www.cccssf.org, 1-800-777-7526, which conducts an on-line self-study program, followed by a telephone counseling session also states in its website that it will consider waiving the fee in certain limited circumstances.

I certify that on the date shown on the attached document verification, a true and correct copy of the foregoing was either electronically transmitted, faxed, delivered or mailed to the listed counsel and/or parties.

Lucy Mondragon
900 Cypress Street
Clovis, NM 88101

Linda S. Bloom
Chapter 7 Trustee
P.O. Box 218
Albuquerque, NM 87103

Office of the United States Trustee
PO Box 608
Albuquerque, NM 87103



Patti G. Hennessy
Law Clerk
(505) 348-2525